

report for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed.

(PALEONTOLOGICAL RESOURCES)

GP19. PALEONTOLOGICAL MITIGATION AND MONITORING PROGRAM:
[DPLU] [Grading Inspection] Intent: In order to mitigate potential impacts to previously unknown paleontological resources during Project grading and excavation activities, a mitigation and monitoring program shall be established. **Description of Requirement:** The impacts will be mitigated by implementing the mitigation and monitoring program detailed in the County's Guidelines for Determining Significance – Paleontological Resources (County of San Diego 2008). Initial cutting, grading, or excavation of undisturbed substratum in areas of high and moderate sensitivity will be monitored by a Project Paleontologist or a Paleontological Resources Monitor under the supervision of the Project Paleontologist. If paleontological resources are unearthed, the Qualified Paleontologist or Paleontological Monitor shall direct, divert, or halt any grading or excavation activity until such time that the sensitivity of the resource can be determined and the appropriate recovery implemented. If found, significant paleontological resources will be salvaged, cleaned, curated, and transferred to an accredited museum or university in California. Mitigation shall be considered complete when the County's Permit Compliance Coordinator, on behalf of the Director of Planning and Land Use, receives a final report prepared by the Project Paleontologist, and a letter from the accredited institution stating that the paleontological resources have been received and accepted. **Documentation:** The applicant shall prepare a final report documenting the findings and analysis of field work. The final report shall be submitted to the Department of Planning and Land Use. **Timing:** Fieldwork and analysis shall be completed prior to final grading inspection. **Monitoring:** The Department of Planning and Land Use shall review the final paleontological report in conformance with this mitigation measure and the San Diego County Paleontological Guidelines for Determining Significance.

IMPROVEMENT PLANS:

(BIOLOGICAL RESOURCES)

GP20. BREEDING SEASON CONSTRUCTION NOISE RESTRICTIONS: [DPW] [Improvement Plans] Intent: In order to mitigate for potential indirect impacts to breeding or nesting birds, including raptors and the burrowing owl that could be impacted by construction activities. **Description of Requirement:** Construction noise may not exceed 60 dB L_{eq} at any active raptor or burrowing owl nest site. If construction occurs during the

breeding season (**February 1 – August 31**), a pre-construction survey shall be conducted by a County-approved biologist to determine whether construction activities are located within 300 feet of burrowing owl burrows or within 800 feet of ground dwelling raptor nests. Construction activities may not proceed within 300 feet of active burrowing owl burrows or within 800 feet of active ground dwelling raptor nests. This limitation may only be waived by the Director of DPLU if a noise report by a County-approved noise consultant certifies that noise levels would not exceed 60 dB L_{eq} at the nest site. If the noise report determines that noise mitigation measures such as noise barriers are necessary to bring noise levels to below 60 dB L_{eq} at the nest site(s), they shall be installed prior to starting construction.

Documentation: The DPW shall ensure that improvement plans include a note documenting these requirements. The applicant shall prepare a pre-construction survey no more than 30 days prior to the commencement of construction activities to determine whether construction activities are proposed within 300 feet of burrowing owl burrows or 800 feet of ground dwelling raptor nests. If construction activities are proposed within 300 feet of burrowing owl burrows or 800 feet of ground dwelling raptor nests, the applicant shall provide a noise report prepared by a County-approved noise consultant specifying what mitigation measures, if any, are required to bring the noise level at the nest site(s) below 60 dB L_{eq} . If noise mitigation measures are required, the applicant shall provide evidence (e.g., photos) that demonstrates that the measures have been undertaken in accordance with the noise report. **Timing:** These restrictions shall be documented on all project improvement plans prior to Final Map approval. Pre-construction surveys shall occur no more than 30 days prior to construction activities. If noise barriers or other noise mitigation measures are required, such measures shall be installed prior to commencement of any construction activities which occur within 300 feet of burrowing owl burrows or 800 feet of ground dwelling raptor nests. **Monitoring:** The DPW shall review improvement plans to ensure that the required notes have been included on the plans. The DPLU shall review the pre-construction survey, noise report, and evidence that noise minimization measures have been undertaken to ensure that the requirements specified by this measure have been satisfied.

Documentation: The applicant shall submit the grading plans and improvement plans, which conform to the conceptual development plan for the project. **Timing:** Prior to the approval of the map for all maps and phases and prior to the approval of any grading or improvement plan and issuance of any permit, the notes and items shall be placed on the plans as required. **Monitoring:** The [DPW, ESU, or DPLU, BD for DPLU Minor Grading, [DPR, TC for trails and PP for park improvements]] shall verify that the grading and or improvement plan requirements have been implemented on the final grading and or improvement plans as applicable. The environmental mitigation notes shall be made conditions of the issuance of said grading or construction permit.

IT IS FURTHER RESOLVED, THEREFORE, that the Planning Commission of the County of San Diego hereby makes the following findings as supported by the minutes, maps, exhibits, and documentation of said Tentative Map all of which are herein incorporated by reference:

1. The Tentative Map is consistent with all elements of the San Diego County General Plan and with the Specific Plan Area Land Use Designation of the Otay Subregional Plan because it proposes a mixed industrial use type consistent with the Mixed Industrial Designation of the East Otay Mesa Specific Plan and complies with the provisions of the State Subdivision Map Act and the Subdivision Ordinance of the San Diego County Code;
2. The Tentative Map is consistent with the Zoning Ordinance because it proposes an industrial use type with a minimum net lot size of 30,000 SF in the S88 Use Regulation;
3. The design and improvements of the proposed subdivision are consistent with all elements of the San Diego County General Plan and with the Otay Subregional Plan, and comply with the provisions of the State Subdivision Act and the Subdivision Ordinance of the San Diego County Code;
4. The site is physically suitable for the industrial type of development because it is generally flat vacant land that lies adjacent to the U.S./Mexico border and has been designated for industrial development;
5. The site is physically suitable for the proposed density of development because the area is designated for industrial development including State Route 11 and the future Port of Entry;
6. The design of the subdivision and the type of improvements will not cause public health problems because adequate water supply and sewage disposal services have been found to be available or can be provided concurrent with need;
7. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat based upon the findings of an Environmental Impact Report dated October 2011;
8. The design of the subdivision or the type of improvements do not conflict with easements, acquired by the public at large, for access through, or use of property within the proposed subdivision, as defined under Section 66474 of the Government Code, State of California; and

9. The division and development of the property in the manner set forth on the approved Tentative Map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement;
10. The discharge of sewage waste from the subdivision into the San Diego County Sanitation District sewer system will not result in violation of existing requirements prescribed by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code, as specified by Government Code Section 66474.6;

MITIGATION MONITORING OR REPORTING PROGRAM (MMRP): Public Resources Code Section 21081.6 requires the County to adopt a Mitigation Monitoring or Reporting Program for any project approved with the adoption of a Mitigated Negative Declaration or with the certification of an Environmental Impact Report, for which changes in the project are required in order to avoid significant impacts.

Section 21081.6(a)(1) states, in part:

The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.

Section 21081(b) further states:

A public agency shall provide [that] the measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures.

As indicated above, a Mitigation Monitoring or Reporting Program is required to assure that a project is implemented in compliance with all required mitigation measures. The Mitigation Monitoring or Reporting Program (MMRP) for this project is incorporated into the mitigation measures adopted as project conditions of approval. Each mitigation measure adopted as a condition of approval (COA) includes the following five components.

Intent: An explanation of why the mitigation measure (MM) was imposed on the project.

Description: A detailed description of the specific action(s) that must be taken to mitigate or avoid impacts.

Documentation: A description of the informational items that must be submitted by the applicant to the Lead Agency to demonstrate compliance with the COA.

Timing: The specific project milestone (point in progress) when the specific required actions are required to implemented.

Monitoring: This section describes the actions to be taken by the lead agency to assure implementation of the mitigation measure.

The conditions of approval required to mitigate or avoid significant impacts on the environment are listed below and constitute the MMRP for this project:

1-5, 7, 12-32, 35-44, 49-51, 55, 56, 62, 69, 71, GP1-GP20

MAP PROCESSING REQUIREMENTS: The parcel map shall comply with the following processing requirements pursuant to the [Sections 81.801 through 81.811 of the Subdivision Ordinance](#) and the [Subdivision Final Map Processing Manual](#).

- ☒ The Final map shall show an accurate and detailed vicinity map.
- ☒ The Basis of Bearings for the Final Map shall comply with [Section 81.506 of the Subdivision Ordinance](#).
- ☒ Prior to the approval of the Final Map by the Department of Public Works, the subdivider shall provide the Department of Public Works with a copy of the deed by which the subject property was acquired and a Final Map report from a qualified title insurance company.
- ☒ The following notes shall appear on the Final Map:
 - ☒ All parcels within this subdivision have a minimum of 100 square feet of solar access for each future industrial unit allowed by this subdivision as required by [Section 81.401\(m\) of the Subdivision Ordinance](#).
 - ☒ At the time of recordation of the Final Map, the name of the person authorizing the map and whose name appears on the SURVEYOR'S CERTIFICATE as the person who requested the map, shall be the name of the owner of the subject property.
 - ☒ The public and private easement roads serving this project shall be named. The responsible party shall contact the Street Address Section of the Department of Planning and Land Use (858-694-3797) to discuss the road naming requirements for the development. Naming of the roads is necessary for the health and safety of present and future residents.
- ☒ The Zoning regulations require that each parcel shall contain a minimum net area of 30,000 square feet. If, as a result of survey calculations, required easements, or for any other reason, the area of any parcel shown on this Tentative Map is determined by the Department of Public Works to be below the zoning minimum, it becomes the responsibility of the subdivider to meet zoning requirements by lot redesign, or other applicable technique. The subdivider shall

comply with the zoning area requirements in full before the Department of Public Works may file a Parcel Map with the County Recorder.

- ☒ Cause the centerline of Siempre Viva Road and Airway Road to be surveyed and monumented. Monumentation shall consist of street survey monuments, per Drawing M-10 Regional Standard Drawings when the road, as improved, is at ultimate line and grade and 2" x 24" pipe when the road is not at ultimate line and grade.

ORDINANCE COMPLIANCE AND NOTICES: The project is subject to, but not limited to the following County of San Diego, State of California, and US Federal Government, Ordinances, Permits, and Requirements:

NOTICE: This project has been found to conform to the San Diego County Multiple Species Conservation Program Subarea Plan, Biological Mitigation Ordinance and Implementing Agreement. Upon fulfillment of the requirements for permanent mitigation and management of preserved areas as outlined in Section 17.1 (A) of the County's Implementing Agreement for the Multiple Species Conservation Program (MSCP) Plan, Third Party Beneficiary Status can be attained for the project. Third party beneficiary status allows the property owner to perform "incidental take" under the State and Federal Endangered Species Acts, of species covered by the MSCP Plan while undertaking land development activities in conformance with an approval granted by the County in compliance with the County's Implementing Agreement.

NOTICE: THE ISSUANCE OF THIS PERMIT BY THE COUNTY OF SAN DIEGO DOES NOT AUTHORIZE THE APPLICANT FOR SAID PERMIT TO VIOLATE ANY FEDERAL, STATE, OR COUNTY LAWS, ORDINANCES, REGULATIONS, OR POLICIES INCLUDING, BUT NOT LIMITED TO, THE FEDERAL ENDANGERED SPECIES ACT AND ANY AMENDMENTS THERETO.

STORMWATER ORDINANCE COMPLIANCE: In order to Comply with all applicable stormwater regulations the activities proposed under this application are subject to enforcement under permits from the [San Diego Regional Water Quality Control Board \(RWQCB\)](#) and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control [Ordinance No. 10096](#) and all other applicable ordinances and standards for the life of this permit. The project site shall be in compliance with all applicable stormwater regulations referenced above and all other applicable ordinances and standards. This includes compliance with the approved Stormwater Management Plan, all requirements for Low Impact Development (LID), materials and wastes control, erosion control, and sediment control on the project site. Projects that involve areas 1 acre or greater require that the property owner keep additional and updated information onsite concerning stormwater runoff. The property owner and permittee shall comply with the requirements of the stormwater regulations referenced above.

LOW IMPACT DEVELOPMENT NOTICE: On January 24, 2007, the San Diego Regional Water Quality Control Board (SDRWQCB) issued a new Municipal

Stormwater Permit under the National Pollutant Discharge Elimination System (NPDES). The requirements of the Municipal Permit were implemented beginning January 25, 2008. *Project design shall be in compliance with the new Municipal Permit regulations.* The Low Impact Development (LID) Best Management Practices (BMP) Requirements of the Municipal Permit can be found at the following link on Page 19, Section D.1.d (4), subsections (a) and (b):

http://www.waterboards.ca.gov/sandiego/water_issues/programs/stormwater/docs/sd_permit/r9_2007_0001/2007_0001final.pdf

<http://www.sdcounty.ca.gov/dplu/docs/LID-Handbook.pdf>

The County has provided a LID Handbook as a source for LID information and is to be utilized by County staff and outside consultants for implementing LID in our region. See link above.

GRADING PERMIT REQUIRED: A grading permit is required prior to commencement of grading when quantities exceed 200 cubic yards of excavation or eight feet (8') of cut/fill per criteria of [Section 87.201 of the County Code](#).

CONSTRUCTION PERMIT REQUIRED: A Construction Permit and/or Encroachment Permit for any and all work within the County road right-of-way. Contact DPW Construction/Road right-of-way Permits Services Section, (858) 694-3275, to coordinate departmental requirements. In addition, before trimming, removing or planting trees or shrubs in the County Road right-of-way, the applicant must first obtain a permit to remove plant or trim shrubs or trees from the Permit Services Section.

ENCROACHMENT PERMIT REQUIRED: An Encroachment Permit from the Department of Public Works for any and all proposed/existing facilities within the County right-of-way. At the time of construction of future road improvements, the proposed facilities shall be relocated at no cost to the County, to the satisfaction of the Director of Public Works.

EXCAVATION PERMIT REQUIRED: Obtain an excavation permit from the County Department of Public Works for undergrounding and/or relocation of utilities within the County right-of-way.

TRANSPORTATION IMPACT FEE: The project is subject to County of San Diego Transportation Impact Fee (TIF) pursuant to County TIF Ordinance number 77.201 – 77.219. The Transportation Impact Fee (TIF) shall be paid. The fee is required for the entire project, or it can be paid at building permit issuance for each phase of the project. The fee is calculated pursuant to the ordinance at the time of building permit issuance. The applicant shall pay the TIF at the [DPW, Land Development Counter] and provide a copy of the receipt to the [DPLU, Building Division Technician] at time of permit issuance.

SANITATION NOTICE: The following shall be met after map recordation:

COMMITMENT FOR CAPACITY AND LIST OF FEES: A commitment for capacity to serve the proposed development and list of required fees (per County Ordinance Number 9146) will be provided by [SDCSD] at time of building permit issuance.

PAY DISTRICT FEES: The developer shall pay all [SDCSD] fees in effect at time of issuance of the Wastewater Discharge Permit.

PAY FAIR SHARE COSTS: Prior to issuance of the Wastewater Discharge Permit, the developer shall pay all fair share costs attributable to third party reimbursement agreement(s) associated with this project that may be in effect at time of permit issuance.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT FROM CITY: If required, the developer shall obtain an Industrial Wastewater Discharge Permit from the City, as directed by [DPW WWM]. For information, contact Armando Martinez at (858) 654-4122.

COMMERCIAL WASTEWATER DISCHARGE PERMIT: The developer shall obtain a Commercial Wastewater Discharge Permit from the County. The developer/owner shall make a written application to the County through Department of Planning and Land Use, building permit counter. For information, contact Louis Conde at 858-694-2660.

NOTICE: Fish and Game Fees have been paid in the amount of \$2,839.25 for the review of the EIR, Receipt number 410476, dated October 17, 2011.

NOTICE: Time Extension requests cannot be processed without updated project information including new Department of Environmental Health certification of septic systems. Since Department of Environmental Health review may take several months, applicants anticipating the need for Time Extensions for their projects are advised to submit applications for septic certification to the Department of Environmental Health several months prior to the expiration of their Tentative Maps.

EXPLANATION OF COUNTY DEPARTMENT AND DIVISION ACRONYMS			
Department of Planning and Land Use	<u>DPLU</u>	Department of Public Works	<u>DPW</u>
Project Planning Division	PPD	Land Development Project Review Teams	LDR
Permit Compliance Coordinator	PCC	Project Manager	PM
Building Plan Process Review	BPPR	Plan Checker	PC
Building Division	BD	Map Checker	MC

Building Inspector	BI	Private Development Construction Inspection	PDCI
Landscape Architect	LA	Environmental Services Unit Division	ESU
Zoning Counter	ZO		
Department of Environmental Health	<u>DEH</u>	Department of Parks and Recreation	<u>DPR</u>
Land and Water Quality Division	LWQ	Trails Coordinator Group Program Manager Parks Planner	TC GPM PP
Vector Control	VCT	Department of General Service	<u>DGS</u>
Local Enforcement Agency	LEA	Real Property Division	RP
Hazmat Division	HMD		

APPEAL PROCEDURE: Within ten days after adoption of this Resolution, these findings and conditions may be appealed in accordance with [Section 81.307 of the Subdivision Ordinance](#) and as provided in Section 66452.5 of the Government Code. An appeal shall be filed with the appellant body and/or the Board of Supervisors within TEN CALENDAR DAYS of the date of this Resolution AND MUST BE ACCOMPANIED BY THE DEPOSIT OR FEE AS PRESCRIBED IN THE DEPARTMENT'S FEE SCHEDULE, DPLU FORM #369, pursuant to Section 362 of the San Diego County Administrative Code. If the tenth day falls on a weekend or County holiday, an appeal will be accepted until 4:00 p.m. on the following day the County is open for business. No Final Map shall be approved, no grading permit issues, and no building permits for model homes or other temporary uses as permitted by Section 6116 of the Zoning Ordinance shall be issued pursuant to said Tentative Map until after the expiration of the 10th day following adoption of this Resolution, or if an appeal is taken, until the appeal board has sustained the determination of this advisory body. Furthermore, the 90-day period in which the applicant may file a protest of the fees, dedications or exactions begins on the date of adoption of this Resolution.

ON MOTION of Commissioner Riess, seconded by Commissioner Norby, this Resolution is passed and approved by the Planning Commission of the County of San Diego, State of California, at a regular meeting held on this 4th day of November 2011, in the Department of Planning and Land Use Hearing Room, 5201 Ruffin Road, Suite B, San Diego, California, by the following vote:

AYES: 6

NOES: 0

ABSENT: 1

DPL/WP 001-TM (06/29/09)

cc: Ricardo Jinich, Otay Business Park, LLC, 4370 La Jolla Village Drive Suite 640,
San Diego, CA 92122
Matt Barlow, Kimley-Horn and Associates, 401 B Street, Suite 600, San Diego,
CA 92101

email cc:

Jeramey Harding, T&B Planning, jharding@tbplanning.com
David Sibbet, Planning Manager, Department of Planning and Land Use
Ed Sinsay, Project Manager, Department of Public Works
Rene Vidales, DPW Project Engineer, Department of Public Works